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GOVERNMENT OF KERALA

Law Department

NOTIFICATION

No. 3397H4/63/Law.

Dated, Trivandrum, the 24th February 1964/
Phalguna 5, 1885 (*Saka*)

The following Act of the Kerala State Legislature is hereby published for general information. The Bill as passed by the Legislative Assembly received the assent of the Governor on the 24th day of February, 1964.

By order of the Governor,
P. Sankaran Elayath,
Law Secretary.

PRINTED AND PUBLISHED BY THE S.G.P. AT THE GOVERNMENT PRESS, TRIVANDRUM, 1964.

ACT 4 OF 1964

THE KERALA ESCHEATS AND FORFEITURES ACT, 1964

An Act to provide for the administration, supervision, custody and disposal of escheats and unclaimed property.

Preamble.—WHEREAS it is necessary to provide for the administration, supervision, custody and disposal of escheats and unclaimed property in the State of Kerala;

BE it enacted in the Fifteenth Year of the Republic of India as follows:—

CHAPTER I

Preliminary

1. **Short title, extent and commencement.**—(1) This Act may be called the Kerala Escheats and Forfeitures Act, 1964.

(2) It extends to the whole of the State of Kerala.

(3) It shall come into force on such date as the Government may, by notification in the Gazette, appoint.

2. **Definitions.**—In this Act, unless the context otherwise requires,—

(a) "Board" means the Board of Revenue for the State of Kerala, constituted under the Kerala Board of Revenue Act, 1957;

(b) "Collector" means the Collector of a district and includes any other officer empowered by the Government to exercise all or any of the powers of a Collector under this Act;

(c) "court" means any civil court of competent jurisdiction.

CHAPTER II

Escheats

3. **Escheats.**—Where a person dies intestate and without leaving legal heirs, all his property shall be escheat and shall belong to the Government.

4. **Preliminary enquiry.**—Whenever the Collector receives information from any source that any person in possession of any movable or immovable property lying within his jurisdiction has died intestate and without legal heirs, he shall cause an inquiry to be made as to whether the deceased has died intestate and whether he has left any legal heirs.

5. **Publication in the Gazette.**—If, as a result of the inquiry under section 4, the Collector is satisfied that the deceased has died intestate and without legal heirs and that it is a *prima facie* case of escheat, he shall publish in the Gazette a notice calling upon all persons who may have any claim to the property of the deceased to appear before him and prefer their claims within six months from the date of publication of the notice.

6. **Investigation and decision.**—If any claim is preferred within the period fixed under section 5, the Collector shall investigate the claim and take in all evidence produced by the claimant. He shall decide the case after such inquiry as he deems fit to make, and issue notice of the decision to the parties concerned. The decision of the Collector shall be final, subject to the provisions of sections 7 and 11.

7. **Appeal.**—(1) An appeal shall lie to the Board from the decision of the Collector under section 6 within three months from the date of the notice to the parties concerned, and the decision of the Board on such appeal shall, subject to the provisions of sub-section (2) of this section and section 11, be final.

(2) Any person aggrieved by the order of the Board under sub-section (1) may, within sixty days of the date of communication of the order to the parties concerned, appeal to the Government against such order, and the decision of the Government on such appeal shall, subject to the provisions of section 11, be final.

(3) No order under sub-section (1) or sub-section (2) shall be passed without giving all persons interested an opportunity of being heard.

8. **Effect of decision.**—The decision of the Collector shall not be given effect to until the time for the institution of a suit under section 11 is over or until the suit, if any, instituted is finally disposed of.

9. **Disposal of escheats.**—(1) In the case of escheats which are movable property, the Collector shall take steps for the sale of the property by public auction in the manner prescribed, the sale proceeds being credited to the Government.

(2) Escheats which are immovable property shall be disposed of in accordance with the provisions of the Kerala Government Land Assignment Act, 1960 and of the rules made thereunder:

Provided that lands which have escheated to the Government shall not ordinarily be sold until it has been in the possession of the Government for twelve years or more.

10. **Taking possession by Collector.**—(1) Notwithstanding anything contained in sections 5 to 9 (both inclusive), the Collector may, if satisfied after the inquiry under section 4 that the person in possession of any movable or immovable property died intestate and without legal heirs, take possession of such property, provided that the property is not in the possession of any person or the person in possession does not offer any opposition. If there is opposition and there is no risk of the property being damaged by the delay in taking possession thereof and arranging for its care and maintenance, the person may be left in possession until the claim is finally settled. If there is risk of damage, the Collector may file a suit in the

court to establish the right of the Government and take possession of the same.

(2) The property taken possession of under sub-section (1) shall be managed by the Government in the manner prescribed:

Provided that the Collector may dispose of any perishable property by public auction in the manner prescribed at any time after taking possession under sub-section (1).

11. **Saving of rights to sue.**—Nothing in this Chapter shall be held to prevent parties deeming themselves aggrieved by any decision or order passed or proceedings taken or purporting to be passed or taken under this Chapter from suing the Government in the civil courts:

Provided that such suits shall be preferred within six months from the time at which the cause of action arose:

Provided further that the whole time occupied by the Board of Revenue and the Government under section 7 shall be excluded from the computation of the period of limitation of the said six months.

CHAPTER III

Unclaimed Property

12. **Police to take charge of unclaimed properties found in public places.**—Any article found in a public place, the owner of which is not known, shall be taken charge of by any police officer who shall send them for disposal to the Collector.

13. **Publication in the Gazette.**—(1) The Collector shall publish a notice in the Gazette inviting claimants to prefer claims to the article sent to him by the police under section 12 within three months from the date of publication of the notice.

(2) Nothing contained in sub-section (1) shall prevent the Collector from disposing of any perishable articles, which come into his possession, at any time, either before or after the publication of the notice under sub-section (1).

(3) The articles referred to in sub-section (2) shall be sold in public auction in the manner prescribed, and the proceeds of the sale shall be handed over to the rightful claimants after deducting the expenses of the sale or credited to the Government if no claim is preferred within the period specified in sub-section (1).

14. **Forfeiture of articles.**—If no claim is preferred within the period specified in sub-section (1) of section 13, the Collector shall pass an order forfeiting the articles, other than those dealt with under sub-section (2) of the said section, to the Government, and the articles shall thereupon be sold in public auction in the manner prescribed, and the sale proceeds credited to the Government.

15. **Uncontested claim.**—If a claim is preferred within the time allowed and it is not contested, the article shall be handed over to the claimant.

16. **Contested claim.**—In the case of a contested claim, the Collector shall refer the matter to the court and shall be guided by the decision of the court:

Provided that nothing contained in this section shall prevent the Collector from disposing of any perishable articles which come into his possession by public auction in the manner prescribed, at any time before the decision of the court, and in that case the sale proceeds shall be handed over to the court after deducting therefrom the expenses of the sale.

CHAPTER IV

Miscellaneous

17. **Power of Government to make rules.**—(1) The Government may, by notification in the Gazette, make rules for the purpose of carrying into effect the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for—

(a) the superintendence and disposal of escheats and unclaimed articles;

(b) the manner in which property shall be managed by the Government under section 10;

(c) the procedure to be observed in public auctions under this Act;

(d) any other matter which has to be, or may be, prescribed.

(3) Every rule made under this Act shall be laid as soon as may be after it is made before the Legislative Assembly while it is in session for a total period of fourteen days which may be comprised in one session or in two successive sessions, and if before expiry of the session in which it is so laid or the session immediately following, the Legislative Assembly agrees that the rule should be either modified or annulled, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

18. **Repeal.**—The Madras Endowments and Escheats Regulation 1817 (VII of 1817) as in force in the Malabar district referred to in sub-section (2) of section 5 of the States Reorganisation Act, 1956 (Central Act 37 of 1956), in so far as it relates to escheats, is hereby repealed.